

Appl. No. 10/623,882
Docket No. AA-600
Amdt. dated September 14, 2006
Reply to Office Action mailed on February 24, 2006
Customer No. 27752

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REMARKS

Claims 1-8 and 10 are pending in the present application. No additional claim fee is believed to be due.

The step of "cutting the continuous fastening composite web" in claim 1 is amended herein to further define the "continuous cut line comprising a plurality of repeating patterns" recited therein. More particularly, the cutting step of independent claim 1 is amended to recite each of the repeating patterns "having a first side and a second side." Claim 1 is further amended to recite that the first and second sides extend from one panel region through the two first fastening materials to "extend into" the other panel region and extend to return from the other panel region through the two first fastening materials to "extend into" the one panel region. These amendments merely restate and clarify how the continuous cut line extends and does not alter the scope of claim 1. As such, it is believed these changes do not involve the introduction of new matter, nor are these changes considered narrowing amendments related to patentability. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection Under 35 U.S.C. § 103(a)

In the Office action of February 24, 2006, claims 1-4, 6, and 7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,759,317 issued to Justmann (hereinafter "Justmann '317"), in view of French Patent No. 2,810,537 issued to Brutin (hereinafter "Brutin") and U.S. Patent No. 5,876,531 issued to Jacobs et al. (hereinafter "Jacobs").

In an Amendment and Response filed April 18, 2006, Applicants pointed out that Justmann '317 discloses a composite web 22 divided along a first serpentine division line 62 and a second serpentine division line 62a, which are non-intersecting. The first and second serpentine division lines each have a first plurality of laterally inboard hill regions 114 (114a) and relatively outboard valley regions 115 (115a) which alternate in occurrence along the longitudinal dimension 86 of the composite web 22. Desirably, the first and second serpentine division lines are substantially coextensive, and the hill regions 114 and 114a of the first and second serpentine division lines do not extend into the webs of panel material 56. (See col. 4, ll. 14-35, emphasis added). Applicants respectfully submitted that because the hill regions 114 and 114a of the first and second

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serpentine division lines of Justmann '317 do not extend into the webs of panel material 56, Justmann '317 teaches away from the claimed invention.

The Advisory Action of May 1, 2006 asserted the present application was not placed in condition for allowance, because "the claimed limitations do not exclude a cut line with a width such as the cut out strip 80 of Justmann." In order to establish a prima facie case of obviousness, three basic requirements must be met. (See MPEP § 2143). First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *Id.* Second, there must be a reasonable expectation of success. *Id.* Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *Id.* It is respectfully submitted that the Office action of February 24, 2006 does not establish a prima facie case of obviousness, because the combination of Justmann, Brutin, and Jacobs does not teach or suggest all the claim limitations recited in amended independent claim 1. In addition, claim 1 is amended herein to address the comments recited in the Advisory Action of May 1, 2006 by restating and clarifying how the continuous cut line recited therein extends.

As discussed above, the step of "cutting the continuous fastening composite web" in independent claim 1 is amended herein to provide additional clarity as to how the continuous cut line extends. In particular, the continuous cut line of amended claim 1 comprises a plurality of repeating patterns, each of the repeating patterns having a first side and a second side. (emphasis added herein). Claim 1 further recites that the first and second sides extend from one panel region through the two first fastening materials to extend into the other panel region and extend to return from the other panel region through the two first fastening materials to extend into the one panel region. (emphasis added herein). The cut out strip 80 of Justmann '317 has a width defined between a first side (i.e. first serpentine division line 62) and a second side (i.e. second serpentine division line 62a). As discussed above, the hill regions 114 and 114a of the first and second serpentine division lines do not extend into the webs of panel material 56. As such, the first and second sides of the cut out strip 80 in Justmann '317 do not extend from one panel region through the two first fastening materials to extend into the other panel region, as recited in amended claim 1. (emphasis added herein). Accordingly, Justmann '317, either alone or in combination with Brutin and/or Jacobs, does not teach or suggest all the claim elements recited in claim 1.

Therefore, it is respectfully submitted that, for at least the reasons provided above, a prima facie case of obviousness has not been established. As such, claim 1 is patentable

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under 35 U.S.C. § 103(a) over Justmann '317 in view Brutin and Jacobs. Claims 2, 3, 4, 6, and 7 depend from and include all the limitations of claim 1. Thus, claims 2, 3, 4, 6, and 7 are patentable under 35 U.S.C. § 103(a) over Justmann '317 in view Brutin and Jacobs for at least the same reasons discussed above with regard to claim 1.

In the Office action of February 24, 2006, claims 5, 8, and 10 were also rejected under 35 U.S.C. § 103(a). In particular, claim 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Justmann '317 in view of Brutin and Jacobs, and in further view of U.S. Patent No. 5,399,219 issued to Roessler et al. (hereinafter Roessler). Claim 8 was also rejected under 35 U.S.C. § 103(a) as being unpatentable over Justmann '317 in view of Brutin and Jacobs, and in further view of U.S. Patent No. 5,624,429 issued to Long et al. (hereinafter Long). In addition, claim 10 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Justmann '317 in view of Brutin and Jacobs, and in further view of U.S. Patent No. 6,195,850 issued to Melbye et al. (hereinafter Melbye).

Applicants submit that neither Roessler, Long, nor Melbye correct for the deficiencies of Justmann '317 discussed above. As such, claim 1 is patentable under 35 U.S.C. § 103(a) over Justmann '317 in view Brutin, Jacobs, Roessler, Long, and/or Melbye. Claims 5, 8, and 10 depend from and include all the limitations of claim 1. Thus, claims 5, 8, and 10 are patentable under 35 U.S.C. § 103(a) for at least the same reasons discussed above with regard to claim 1.

Therefore, it is believed that claims 1-8 and 10 are in form for allowance and such indication is respectfully requested.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections under 35 U.S.C. § 103(a). Early and favorable action in the case is respectfully requested.

Respectfully submitted,

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